

Applicant: Falke et al.
Serial No.: 10/046,808
Group Art Unit: 1711

REMARKS

Claims 1-14, and 16 remain in the application with claim 1 in independent form. Claim 16 has been newly added. Claims 1-6 and 9 have been amended. There is full support in the specification as originally filed for these amendments and no new matter has been introduced through these amendments.

Claims 1-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Falke et al. (United States Patent No. 6,063,808) alone, and in view of Nodelman et al. (United States Patent No. 5,847,014). The Examiner generally contends that Falke et al. discloses preparations of flexible polyurethane foams prepared from MDI, TDI, and other isocyanates, polyol blends having the make-up criteria as claimed by Applicants, catalysts, and flame retardants, and other additives.

Applicant respectfully traverses because the Examiner has failed to establish a prima facie case of obviousness. To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not be based on

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Applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP §2143 - §2143.03.

Specifically, the prior art reference (or references when combined) do not teach or suggest all the claim limitations. The subject invention claims a process for the preparation of low-odor flexible polyurethane foams by reacting organic and/or modified organic polyisocyanates (a) with a polyetherol mixture (b). The polyetherol mixture (b) comprises two components, (b1) and (b2). The component (b1) is at least one difunctional to octafunctional polyetherol based on ethylene oxide, and optionally based on propylene oxide and/or butylene oxide. The polyetherol has an ethylene oxide content of at least 30% by weight, based on the total amount of alkylene oxide used in the polyetherol (b1), and an OH number of from 20 to 200 mg KOH/g. The (b2) component includes at least one polyetherol based on propylene oxide and/or butylene oxide having an OH number greater than 20 mg KOH/g, and optionally ethylene oxide less than 30% by weight, based on the total amount of alkylene oxide used in the polyetherol (b2). Claim 1 further requires that the foaming is effected in an index range of less than 150.

The subject invention, therefore, focuses on a process for the preparation of low-odor flexible polyurethane foams by reacting the **polyol combination** of the EO-rich polyetherol (b1) and the EO-poor polyetherol (b2) with other components. Additionally, the subject application claims the foaming effected in an index range of less than 150.

Applicant: Falke et al.
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In contrast, Falke et al. only discloses, teaches, or suggests a process for preparing a stable polyol component that includes only a single polyether polyol. Referring to Examples 1-5, the stable polyol is formed from **one of**, and not in combinations of, Lupranol® 2045 (OH# 35 mg KOH/g, EO/PO based) or Lupranol® 2042 (OH# 27 mg KOH/g, EO/PO based). In preparing the stable polyol, the polyetherol is mixed with an alcohol, such as 1,4-butanediol or monoethylene glycol. Falke et al. alone, or in combination with Nodelman et al., does not teach, suggest, or disclose a *polyetherol mixture* having one EO-based polyetherol with greater than 30% by weight based on the total amount of alkylene oxide used and with another PO- and/or BO-based polyetherol. Further, the limitation that the foaming be effected in an index range of less than 150 is not taught, suggested, or disclosed in Falke et al. reference alone or in combination with Nodelman et al. Therefore, it is believed that the §103(a) rejection is overcome and claims 1-14 and 16 should be allowed.

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Accordingly, it is respectfully submitted that the Application, as amended, is now presented in condition for allowance, which allowance is respectfully solicited. Applicant believes that no fees are due, however, if any become required, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account 08-2789. Further and favorable reconsideration of the outstanding Office Action is hereby requested.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS

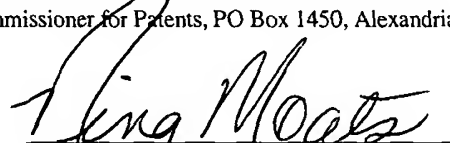


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Date

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I hereby certify that this paper or fee is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on July 30, 2003.


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